

Farm Service Agency, USDA

§ 785.1

specified in paragraph (a) of this section.

(c) Any funds disbursed pursuant to this part to any person or operation who does not comply with the provisions of paragraphs (a) or (b) of this section shall be refunded with interest.

§ 784.16 Refunds; joint and severalliability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this part, and if any refund of a payment to FSA shall otherwise become due in connection with the application, or this part, then all such payments made under this part to any sheep and lamb operation or person shall be refunded to FSA together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing an application for payment as having an interest in an operation or payment shall be jointly and severally liable for any refund, including related charges, which is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation or payment.

(c) Interest shall be applicable to refunds required of any person under this part if FSA determines that payments or other assistance was provided to a person who was not eligible for such assistance. Such interest shall be charged at the rate of interest which the United States Treasury charges the Commodity Credit Corporation for funds, from the date FSA made such benefits available to the date of repayment or the date interest increases as determined in accordance with applicable regulations. FSA may waive the accrual of interest if FSA determines that the cause of the erroneous determination was not due to any action of the person.

(d) Interest determined in accordance with paragraph (c) of this section may be waived at the discretion of FSA alone for refunds resulting from those violations determined by FSA to have been beyond the control of the person committing the violation.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in 7 CFR part 792.

(f) Any excess payments made by FSA with respect to any application under this part must be refunded.

(g) In the event that a benefit under this subpart was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

§ 784.17 Offsets and withholdings.

FSA may offset or withhold any amounts due FSA under this subpart in accordance with the provisions of 7 CFR part 792, or successor regulations, as designated by the Department.

§ 784.18 Assignments.

Any person who may be entitled to a payment may assign his rights to such payment in accordance with 7 CFR part 1404 or successor regulations as designated by the Department.

PART 785—CERTIFIED STATE MEDIATION PROGRAM

Sec.

785.1 General.

785.2 Definitions.

785.3 Annual certification of State mediation programs.

785.4 Grants to certified State mediation programs.

785.5 Fees for mediation services.

785.6 Deadlines and address.

785.7 Distribution of Federal grant funds.

785.8 Reports by qualifying States receiving mediation grant funds.

785.9 Access to program records.

785.10 Penalties for non-compliance.

785.11 Reconsideration by the Administrator.

785.12 Nondiscrimination.

785.13 OMB control number.

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; and 7 U.S.C. 5101-5104.

SOURCE: 67 FR 57315, Sept. 10, 2002, unless otherwise noted.

§ 785.1 General.

(a) States meeting conditions specified in this part may have their mediation programs certified by the Farm Service Agency (FSA) and receive Federal grant funds for the operation and

§ 785.2

7 CFR Ch. VII (1–1–03 Edition)

administration of agricultural mediation programs.

(b) USDA agencies participate in mediations pursuant to agency rules governing their informal appeals processes. Where mediation of an agency decision by a certified State mediation program is available to participants in an agency program as part of the agency's informal appeal process, the agency will offer a participant receiving notice of an agency decision the opportunity to mediate the decision under the State's certified mediation program, in accordance with the agency's informal appeals regulations.

(c) USDA agencies making mediation available as part of the agency informal appeals process may execute memoranda of understanding with a certified mediation program concerning procedures and policies for mediations during agency informal appeals that are not inconsistent with this part or other applicable regulations. Each such memorandum of understanding will be deemed part of the grant agreement governing the operation and administration of a State certified mediation program receiving Federal grant funds under this part.

(d) A mediator in a program certified under this part has no authority to make decisions that are binding on parties to a dispute.

(e) No person may be compelled to participate in mediation provided through a mediation program certified under this part. This provision shall not affect a State law requiring mediation before foreclosure on agricultural land or property.

§ 785.2 Definitions.

Administrator means the Administrator, FSA, or authorized designee.

Certified State mediation program means a program providing mediation services that has been certified in accordance with section 785.3.

Confidential mediation means a mediation process in which the mediator will not disclose to any person oral or written communications provided to the mediator in confidence, except as allowed by 5 U.S.C. 574 or section 785.9.

Covered persons means producers, their creditors (as applicable), and other persons directly affected by ac-

tions of the USDA involving one or more of the following issues:

- (1) Wetlands determinations;
- (2) Compliance with farm programs, including conservation programs;
- (3) Agricultural loans (regardless of whether the loans are made or guaranteed by the USDA or are made by a third party);
- (4) Rural water loan programs;
- (5) Grazing on National Forest System lands;
- (6) Pesticides; or
- (7) Such other issues as the Secretary may consider appropriate.

Fiscal year means the period of time beginning October 1 of one year and ending September 30 of the next year and designated by the year in which it ends.

FSA means the Farm Service Agency of the U.S. Department of Agriculture, or a successor agency.

Mediation services means all activities relating to the intake and scheduling of mediations; the provision of background and selected information regarding the mediation process; financial advisory and counseling services (as reasonable and necessary to prepare parties for mediation) performed by a person other than a State mediation program mediator; and mediation sessions in which a mediator assists disputing parties in voluntarily reaching mutually agreeable settlement of issues within the laws, regulations, and the agency's generally applicable program policies and procedures, but has no authoritative decision making power.

Mediator means a neutral individual who functions specifically to aid the parties in a dispute during a mediation process.

Qualified mediator means a mediator who meets the training requirements established by State law in the State in which mediation services will be provided or, where a State has no law prescribing mediator qualifications, an individual who has attended a minimum of 40 hours of core mediator knowledge and skills training and, to remain in a qualified mediator status, completes a minimum of 20 hours of additional training or education during each 2-year period. Such training or education must be approved by the